NAKAJIMA -- 09/630,557
Client/Matter: 007874-0271790

REMARKS

Claims 1-4, and 6-53 are pending. By this Amendment, claims 1, 3, 6, 14, 17, 20, 23, 24, 45 and 47 are amended. Claims 27-43 and 50-53 have been withdrawn from further consideration as drawn to a non-elected invention. The election was made with traverse.

Reconsideration in view of the above amendments and following remarks is respectfully requested.

Claims 1-4, 6-26, 44, 45 and 47-49 were rejected under 35 U.S.C. §112, second paragraph. The rejection is respectfully traversed.

The Office Action on page 2 alleges that the claims are generally narrative and indefinite, failing to conform with current U.S. practice. The Office Action further alleges that the claims are replete with grammatical and idiomatic errors. The Office Action concludes that the claims fail to clearly convey what Applicant intends to be his invention due to their vague and indefinite wording. Applicant respectfully disagrees.

With respect to claims 1 and 2, the Office Action alleges that "the concept" of synchronization is unclear and concludes that Applicant's use of the terms "synchronization" and "synchronizing" are intended to be some form of authentication of the billing and paying terminals to each other. Again, Applicant respectfully disagrees and respectfully submits that the Examiner's reliance on page 4 of the specification in the conclusion that "synchronization" and "synchronizing" are a form of authentication are improper.

It is respectfully submitted that Applicant is using the terms "synchronization" and "synchronizing" (and any other variation of the root word "synchronize") as they would be understood by one of ordinary skill in the art. Applicant respectfully notes that the term "synchronization" as defined in the Microsoft Press Computer Dictionary, as provided with the March 8, 2005 Office Action, is subject to various meanings. Although not intending to be limited to any particular definition provided in the Microsoft Press Computer Dictionary, it is respectfully submitted that the terms "synchronization" and "synchronizing" may be interpreted according to any of the definitions, depending on the context in which they are used. It is respectfully submitted that is manifestly unfair to present Applicant with a plurality of definitions for the term "synchronization" and require that he "pick one" for purposes of examination. Applicant is using the term "synchronization" as it would be understood by those of ordinary skill in the art. In some instances and/or contexts, the term may be interpreted as meaning the matching of timing between elements of the claimed

invention, whereas in other instances/contexts it may be interpreted as meaning the coordination of communications between elements of the claimed invention.

For example, as disclosed on page 23, lines 6-13, the synchronizing server 30 acquires information about the billing of a commodity transaction by communication to the cashier terminal, acquires information about the paying of a commodity transaction by communication to the user terminal 20, and processes the settlement in transactions between the cashier terminal 10 and the user terminal by synchronizing the communication to the cashier terminal 10 with the communication to the user terminal.

As another example, as disclosed on page 23, line 26 through page 24, line 2, a "synchronizing settlement" is a method that does not directly communicate between the cashier terminal 10 and the user terminal 20, but rather processes a transaction settlement between the cashier terminal 10 and the user terminal 20, by synchronizing communication in real-time between the cashier terminal 10 and the user terminal 20 via the synchronizing server 30 which communicates with both the cashier terminal 10 and the user terminal 20.

Further examples of the term "synchronizing" are found throughout the specification, such as in the description of the "synchronizing authorization" on page 25, lines 9-23, and the combination of the "synchronizing settlement" with the "synchronizing authentication" on page 27, lines 27 through page 28, line 5.

With respect to the Examiner's concern that the specification shows no reference to a clock or timing pulse, it is respectfully submitted that such concern is misplaced. Firstly, the Examiner's concern is not applicable to the issue of whether the claims particularly point out and distinctly claim the subject matter that Applicant regards as his invention. Applicant does not regard a clock or a timing pulse to be his invention. Secondly, although the Examiner's concern may be relevant under 35 U.S.C. § 112, 1st paragraph, it is respectfully submitted that Applicant is not required to disclose a clock or a timing pulse. As acknowledged by the Examiner, such features are understood in computer engineering. As permitted, and encouraged by MPEP § 2164.01, Applicant has omitted this well-known feature from the specification. See, also, MPEP § 2106C. Such omission, however, has no bearing on the issue of whether the claims particularly point out and distinctly claim the subject matter which Applicant regards as his invention.

With respect to claims 3, 4 and 6-26, it is respectfully submitted that the Examiner is improperly attempting to distill the claimed invention to its "gist" or "thrust." It is respectfully noted that claims 3 and 4 do not include the term "authentication." However, the

term "authentication" does appear in claims 14-26. It is respectfully submitted that it is clear that Applicant is not using the terms "synchronization" and "synchronizing" synonymously or interchangeably with the term "authentication."

With respect to claim 6, it is respectfully submitted that this claim recites more than "the vague concept of synchronization" as alleged. Claim 6 recites that the billing terminal and the paying terminal are synchronized with each other by the transaction identifying number.

With respect to claims 17 and 24, these claims have been amended to clarify the claimed subject matter.

With respect to claims 44, 45 and 47-49, it is respectfully submitted that these claims particularly point out and distinctly claim the subject matter Applicant regards as his invention for the reasons discussed above.

Reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph are respectfully requested.

Claim 45 was rejected under 35 U.S.C. §101. The claim has been amended in accordance with the suggestion of the Office Action. Reconsideration and withdrawal of the rejection under 35 U.S.C. §101 are respectfully requested.

Claims 1-4, 6-14, 20-22 and 44-49 were rejected under 35 U.S.C. §103(a) over Takayama (U.S. Patent 6,332,133) in view of Foster (U.S. Patent 6,332,134). The rejection is respectfully traversed.

Foster has a U.S. filing date under 35 U.S.C. § 102(e) of March 9, 2000 and claims priority to a provisional application filed November 1, 1999. Even assuming that all of the subject matter of Foster was disclosed in the provisional application, Foster would only have an effective U.S. filing date of November 1, 1999.

The instant application claims priority to PCT/JP99/04178, filed August 2, 1999, which designated the United States. The subject matter of independent claims 1, 3 and 44-47 is supported, at least, for example, by Figs. 1 and 5 and the corresponding descriptions thereof of PCT/JP99/04178. Accordingly, the subject matter of independent claims 1, 3 and 44-47 has an effective U.S. filing date of August 2, 1999, which is prior to Foster's earliest effective U.S. filing date of November 1, 1999. Therefore, Foster is not prior art and the combination of Takayama and Foster fails to present a *prima facie* case of obviousness against each of independent claims 1, 3 and 44-47.

Claims 4, 6-14, 20-22, 48 and 49 recite additional features of the invention and are allowable for the same reasons discussed above with respect to claim 3 and for the additional features recited therein.

Reconsideration and withdrawal of the rejection of claims 1-14, 20-22 and 44-49 are respectfully requested.

Claims 15-19 and 23-26 were rejected under 35 U.S.C. §103(a) over Takayama in view of Foster and further in view of Holloway (U.S. Patent 5,604,802). The rejection is respectfully traversed.

Claims 15-19 and 23-26 recite additional features of the invention and allowable for the same reasons discussed with respect to claim 3 and for the additional features recited therein. In addition, it is also respectfully submitted that Holloway fails to cure the deficiencies of Takayama and Foster.

Reconsideration and withdrawal of the rejection of claims 15-19 and 23-26 are respectfully requested.

It is respectfully submitted that each instance of the taking of Official Notice is an improper attempt to distill the claimed invention to its "gist" or "thrust" and clearly improper under MPEP §§ 2141.02 and 2144.03. It is further respectfully submitted that the taking of Official Notice six times is clearly contrary to the MPEP's directive that any rejection based on assertions that a fact is well-known or is common knowledge should be judiciously applied.

In view of the above amendments and remarks, Applicant respectfully submits that all the claims are allowable and that the entire application is in condition for allowance.

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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

JOHN P. DARLING
Reg. No. 44482
Tel. No. (703) 905-2045
Fax No. (703) 905-2500

Date: June 1, 2005
P.O. Box 10500
McLean, VA 22102
(703) 905-2000